

EXHIBIT 9

From: Quinan, Rob (CSC) <rob.quinan@state.ma.us>
Sent: Friday, May 7, 2021 5:24 PM
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Cc: Bowman, Christopher (CSC) <christopher.bowman@state.ma.us>;
jsulman@sulmanlaw.com
Subject: Re: [REDACTED] v. Belmont (CSC Case No. D1-20-012)
Importance: High

Good afternoon, counsel (and with sincere apologies that this email is arriving in your in-boxes so late on a Friday afternoon):

Thank you both very much for your respective submissions following the pre-hearing conference we conducted in the above-referenced case last Tuesday. In examining issues of privilege and admissibility of evidence that have been raised to date in this case, another potential issue has surfaced. As you may know, Federal law generally protects the confidentiality of information about a person's participation in a substance abuse treatment program. *See* 42 U.S.C. § 290dd-2; 42 C.F.R. §§ 2.1-2.67. The scope of this law appears to be quite broad. *See* 42 C.F.R. §§ 2.11, 2.12. Under the law, any record concerning the identity, diagnosis, prognosis, or treatment of a patient is confidential and may not be disclosed unless certain limited exceptions apply. *See* 42 U.S.C. § 290dd-2(a). In the absence of an exception, it appears that covered records may not be used in any civil, criminal, or administrative proceeding. 42 C.F.R. § 2.13(a).

Given appellant [REDACTED] objection to the respondent Town's proposed exhibit 3 (Kenmore Notes – March 9, 2016), and the seeming centrality of this exhibit to this appeal, I need to ask each side to brief for the presiding commissioner the applicability, or lack thereof, of the above-referenced Federal statute and regulations to this contested medical documentation. The Commission intends to postpone rulings on objections to exhibits and subpoenas until the parties' positions are articulated in writing. Please provide your submissions via email (cc'ing both Commissioner Bowman and myself) no later than noontime on Monday, May 17, 2021 (and sooner if possible). We will convene again as planned on Tuesday, May 18 at 9:30 a.m. However, this session will be converted to a further pre-hearing conference. Should the Town concede the prima facie applicability of this Federal law, the appointing authority should be prepared to state whether it wishes an opportunity to seek a court order authorizing it to introduce in evidence its proposed exhibit 3, or if it wishes to proceed to an evidentiary hearing with evidence other than information reflected in this exhibit and other than testimony of the contributors to this exhibit. If the latter, we will select a new date on May 18 (as soon thereafter as feasible) for the start of evidentiary proceedings.

Your anticipated cooperation is much appreciated.

Rob Quinan

Robert J. Quinan, Jr.